

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Crl.MC.No. 2396 of 2007()

[CRIME NO.314/2003 OF NORTH PARAVOOR POLICE STATION]

PETITIONER:

MURALI, S/O.KRISHNAN,
KOCHIKKARAN PARAMBU VEEDU, PERUMPADANNA,
PARAVOOR.

BY ADV. SRI.S.RAJEEV

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
(CRIME NO.314 OF 2003 OF NORTH PARAVOOR POLICE
STATION).

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2396 of 2007

Dated this the 26th day of July 2007

O R D E R

The petitioner faces indictment in a prosecution inter alia for the offences punishable under 'The Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001'. Investigation is complete. Final report has already been filed. Cognizance has been taken. The petitioner has appeared before the learned Magistrate. He was enlarged on bail. He was appearing regularly before the learned Magistrate; but when the case was called on 27/6/2007, he was absent. He had wrongly understood the date the posting to be 10/7/2007. The learned Magistrate has consequently issued a non-bailable warrant of arrest against the petitioner. According to the petitioner, he is innocent. His absence was not wilful. The petitioner now wants to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1) KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself. It is further directed that the non-bailable warrant issued against the petitioner shall not be executed till 03/08/2007, the next date of posting. The learned counsel for the petitioner finally prays that there may be a direction for expeditious disposal of the case as the petitioner is expecting to secure an employment. The petitioner must make a request before the learned Magistrate. I find no reason to assume that the learned Magistrate would not consider the same, in accordance with law.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007